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COMPARISON OF MAJOR FEATURES OF  
EXECUTIVE ORDERS GOVERNING  
NATIONAL SECURITY INFORMATION

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I. CLASSIFICATION LEVELS

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>THREE LEVELS:</p> <p>TOP SECRET (TS) - Exceptionally Grave Damage</p> <p>SECRET (S) - Serious Damage</p> <p>CONFIDENTIAL (C) - Prejudicial To Defense</p>	<p>THREE LEVELS:</p> <p>TS - Exceptionally Grave Damage</p> <p>S - Serious Damage</p> <p>C - Damage</p>	<p>THREE LEVELS:</p> <p>TS - Exceptionally Grave Damage</p> <p>S - Serious Damage</p> <p>C - Identifiable Damage</p>	<p>THREE LEVELS:</p> <p>TS - Exceptionally Grave Damage</p> <p>S - Serious Damage</p> <p>C - Damage</p>

COMMENTS: THE WORD "IDENTIFIABLE" HAS BEEN DELETED IN EXECUTIVE ORDER 12356 TO AVOID LITIGATION PROBLEMS THAT MAY ARISE IF A QUANTUM STANDARD IS APPLIED TO THIS WORD. IT IS NOT INTENDED NOR DOES EXPERIENCE INDICATE THAT ITS OMISSION WILL RESULT IN INFORMATION BEING CLASSIFIED UNDER EXECUTIVE ORDER 12356 WHICH WAS NOT CLASSIFIABLE UNDER EXECUTIVE ORDER 12065.

II. WHO MAY ORIGINALLY CLASSIFY

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>TOP SECRET: 48 Agencies -7,136 Persons</p> <p>SECRET: 48 Agencies -23,236 Persons</p> <p>CONFIDENTIAL: 48 Agencies -28,944 Persons</p> <p>TOTAL ORIGINAL CLASSIFIERS: 59,316</p> <p>NOTE: Agency authority cited on this page is cumulative: i.e., agencies with SECRET authority include those with TOP SECRET. The same applies for CONFIDENTIAL.</p>	<p>TOP SECRET: 17 Agencies -1,597 Persons</p> <p>SECRET: 30 Agencies -9,986 Persons</p> <p>CONFIDENTIAL: 30 Agencies -6,043 Persons</p> <p>TOTAL ORIGINAL CLASSIFIERS: 17,626</p>	<p>TOP SECRET: 13 Agencies -1,496 Persons</p> <p>SECRET: 17 Agencies -4,195 Persons</p> <p>CONFIDENTIAL: 19 Agencies -1,538 Persons</p> <p>TOTAL ORIGINAL CLASSIFIERS: 7,229</p>	<p>E.O. 12356 does not list the agencies with classification authority. This will be accomplished by an accompanying Presidential Order. It is presently anticipated that the number of agencies and personnel with classification authority under the new Order will be comparable to that of E.O. 12065.</p>

COMMENTS: EXECUTIVE ORDER 12356 REFLECTS A COMMITMENT TO KEEP THE NUMBER OF CLASSIFIERS TO A NECESSARY MINIMUM, WHILE PROVIDING AN ADMINISTRATIVE REMEDY TO AVOID THE UNNECESSARY INVOLVEMENT OF THE HEAD OF THE AGENCY IN THE DELEGATION PROCESS.

### III. CLASSIFICATION CATEGORIES

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No specific categories are given which limit subject matters that may be classified.	No specific categories are given which limit subject matters that may be classified.	<p>SEVEN CATEGORIES:</p> <ol style="list-style-type: none"> <li>1. Military plans, weapons, or operations;</li> <li>2. Foreign government information;</li> <li>3. Intelligence activities, sources or methods;</li> <li>4. Foreign relations or foreign activities of the United States;</li> <li>5. Scientific, technological, or economic matters relating to the national security;</li> <li>6. United States Government programs for safeguarding nuclear materials or facilities; or</li> <li>7. Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Sec. 1-201, or by an Agency head.</li> </ol>	<p>TEN CATEGORIES:</p> <ol style="list-style-type: none"> <li>1. Military plans, weapons, or operations;</li> <li>2. The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;</li> <li>3. Foreign government information;</li> <li>4. Intelligence activities (including special activities), or intelligence sources or methods;</li> <li>5. Foreign relations or foreign activities of the United States;</li> <li>6. Scientific, technological, or economic matters relating to the national security;</li> <li>7. United States Government programs for safeguarding nuclear materials or facilities;</li> </ol>

COMMENTS: THE THREE ADDITIONAL CATEGORIES CONTAINED IN EXECUTIVE ORDER 12356 REFLECT THE DIFFICULTIES CERTAIN AGENCIES HAVE ENCOUNTERED IN FITTING THIS TYPE OF INFORMATION INTO THE CATEGORIES PROVIDED BY EXECUTIVE ORDER 12065. IT IS NOT INTENDED THAT ADDITIONAL MATERIAL WILL BE CLASSIFIED UNDER THESE CATEGORIES BEYOND THAT WHICH WAS SUBJECT TO CLASSIFICATION UNDER EXECUTIVE ORDER 12065.

III. CLASSIFICATION CATEGORIES (CONTINUED)

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356 CONTINUED
			8. Cryptology; 9. A confidential source; or 10. Other categories of information which are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority. Any determin- ation made under this subsection shall be reported promptly to the Director of ISOO.

IV. PRESUMPTION OF HARM

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No provision is made for a presumption of harm.	No presumption of harm, although certain particularly sensitive categories of information (foreign government information; cryptography; intelligence sources or methods; systems, plans, installations, projects, or foreign relations matters essential to the national security; and information whose disclosure would place a person in immediate jeopardy) are exempted from the general declassification schedule.	Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.	Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

COMMENTS: EXECUTIVE ORDER 12356 RECOGNIZES THE SENSITIVITY OF INTELLIGENCE SOURCES OR METHODS BY PROVIDING THE ADDED PROTECTION OF SECTION 1.3(c)'s PRESUMPTION FOR THIS INFORMATION.

V. DURATION OF CLASSIFICATION

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>FOUR GROUPS:</p> <p>GROUP 1 - No limitations on duration</p> <p>GROUP 1 - No limitations on duration</p> <p>GROUP 3 - No limitations on duration</p> <p>GROUP 4 - 12 years</p>	<p>THREE GROUPS:</p> <p>1. Advanced Declassification Schedule (ADS):</p> <p>TS - Sooner than 10 years</p> <p>S - Sooner than 8 years</p> <p>C - Sooner than 6 years</p> <p>2. General Declassification Schedule (GDS):</p> <p>TS - 10 years</p> <p>S - 8 years</p> <p>C - 6 years</p> <p>3. Extended Declassification Schedule (EDS):</p> <p>TS - 30 years unless extended</p> <p>S - 30 years unless extended</p> <p>C - 30 years unless extended</p>	<p>Six years unless extended by head of Agency or TOP SECRET authority for periods up to 20 years. Following review, head of agency may extend beyond 20 years.</p> <p>The experience under E.O. 12065 indicated that the overwhelming majority (in excess of 90%) was of information not marked for automatic declassification in six years.</p>	<p>If it can be determined, a specific date or event shall be established at time of original classification. Otherwise, classification shall continue as long as required by national security considerations.</p>

COMMENTS: ORIGINAL CLASSIFICATION AUTHORITIES MAY CONTINUE TO ESTABLISH SPECIFIC DATES OR EVENTS FOR CLASSIFICATION. HOWEVER, EXECUTIVE ORDER 12356 TIES THE DURATION OF CLASSIFICATION PRIMARILY TO THE CONTINUED NATIONAL SECURITY SENSITIVITY OF THE INFORMATION. PRIOR SYSTEMS LINKING CLASSIFICATION TO ARBITRARY TIMEFRAMES HAVE NOT PROVED SUCCESSFUL IN SIGNIFICANTLY REDUCING THE AMOUNT OF CLASSIFIED INFORMATION AND HAVE JEOPARDIZED INFORMATION THAT MERITED CONTINUED PROTECTION.

VI. PORTION MARKING

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>No specific provision, although reference is made to a requirement that a document bear only one over-all classification even though pages, paragraphs, sections, or components thereof bear different classifications.</p>	<p>Each classified document, to the extent practicable, is required to be marked to indicate which portions are classified, at what level, and which portions are not classified.</p>	<p>Each classified document must, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. Waivers of this requirement may be granted for good cause by the Director, ISOO.</p>	<p>Each classified document must, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. Agency heads may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information.</p>

COMMENTS: EXECUTIVE ORDER 12356 RECOGNIZES THAT THE INCREASED ADMINISTRATIVE BURDENS OF PORTION MARKING MAY OUTWEIGH ITS POTENTIAL BENEFITS FOR CERTAIN CLASSES OF DOCUMENTS OR INFORMATION, AND THUS AUTHORIZES AGENCY HEADS, FOR GOOD CAUSE, TO WAIVE THIS REQUIREMENT.



VII. LIMITATIONS ON CLASSIFICATION

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No specific group of limitations. Some references to avoiding unnecessary or inappropriate classification.	Classification solely on basis of national security considerations. Not to conceal inefficiency or error, to prevent embarrassment, to restrain competition or to prevent the release of material not requiring national security protection.	<p>Classification improper when used to conceal violations of law, inefficiency or error, prevent embarrassment, or restrain competition, or limit dissemination of information.</p> <p>Classification may not be restored to documents declassified and released to the public. Under limited circumstances, documents can be classified after the receipt of a FOIA or mandatory review request.</p>	Classification shall not be used to conceal violations of law, inefficiency or error, prevent embarrassment, restrain competition, or delay release of information. Basic scientific research unrelated to the national security may not be classified. Under limited circumstances, declassified information which requires protection may be reclassified. Under limited circumstances, documents can be classified after the receipt of a FOIA or mandatory review request.

COMMENTS: EXECUTIVE ORDER 12356 RETAINS THE CRITICAL LIMITATIONS OF THE EXISTING ORDER. IN PERMITTING LIMITED RECLASSIFICATION OF MATERIAL PREVIOUSLY RELEASED, THE ORDER AUTHORIZES SUCH RECLASSIFICATION ONLY IF (1) THE INFORMATION CONTINUES TO REQUIRE PROTECTION IN THE INTEREST OF NATIONAL SECURITY, AND (2) THE INFORMATION CAN BE REASONABLY RECOVERED. TO THE EXTENT THAT INFORMATION CAN BE RECOVERED AND PUBLIC EXPOSURE SIGNIFICANTLY MINIMIZED, THEN THE DAMAGE THE PREVENTION OF WHICH JUSTIFIES CLASSIFICATION WILL STILL POTENTIALLY EXIST.

VIII. RECOGNITION OF DERIVATIVE CLASSIFICATION

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No recognition of distinction between original and derivative classification.	No specific recognition of distinction between original and derivative classification. Holders of classified information are required "to observe and respect" the classification assigned by the originator.	Recognizes derivative classification as a completely distinct process from original classification, but does not define derivative classification. Any authorized holder of classified information may derivatively classify, even persons without original classification authority. Mandates creation of classification guides to be used by derivative classifiers.	Recognizes derivative classification as a completely distinct process from original classification, and defines the term. Any authorized holder of classified information may derivatively classify, even persons without original classification authority. Mandates creation of classification guides, but agency head may waive requirement for specific classes of information and report waiver to ISOO.

COMMENTS: EXECUTIVE ORDER 12356 REFLECTS THE EXPERIENCE UNDER EXECUTIVE ORDER 12065 THAT THERE ARE CERTAIN CLASSES OF INFORMATION FOR WHICH CLASSIFICATION GUIDES ARE INEFFECTUAL, AND WHICH ARE THUS PROPERLY EXCEPTED FROM THIS REQUIREMENT.

IX. AUTHORITY TO DECLASSIFY AND DOWNGRADE

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
Head of agency and designees may declassify or downgrade information originated within that agency. Head of agency and designees may declassify or downgrade information originating in another agency but in their possession based on regulations issued by originating agency.	Authority to declassify or downgrade rests with the originating official; a successor in function; a supervisory official of either; and any other official with TOP SECRET or SECRET classification authority who has been designated by one of the prior listed officials.	Authority to declassify or downgrade rests with the originating official; a successor in function; a supervisory official of either; or other officials designated by the agency head. The Director of ISOO may order an agency head to declassify information determined to be classified in violation of the order. Such an order may be appealed by the agency head to the National Security Council.	Authority to declassify or downgrade rests with the originating official; a successor in function; a supervisory official of either; or other officials designated by the agency head or the information security program senior official. The Director of ISOO may order an agency head to declassify information determined to be classified in violation of the order. Such an order may be appealed by agency head to National Security Council. The information is to remain classified during the pendency of this appeal.

COMMENTS: EXECUTIVE ORDER 12356 RETAINS THE DECLASSIFICATION PROCEDURES OF EXECUTIVE ORDER 12065 AS THEY PERTAIN TO AUTHORITY AND FACILITATES THE DECLASSIFICATION PROCESS BY ALLOWING THE SENIOR AGENCY OFFICIAL TO DESIGNATE DECLASSIFICATION AUTHORITIES.

X. SYSTEMATIC REVIEW

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No provisions for systematic review.	All information classified under prior orders to be reviewed for declassification by the archivist of the United States 30 years from date of origin. Agencies to provide the archivist with guidelines and support as needed. Classification of specific categories of information may be extended beyond 30 years by the head of the originating agency.	Permanently valuable classified records shall be systematically reviewed for declassification 20 years from date of origin. Agency head may extend declassification in 10 year increments following review. Foreign government information to be reviewed 30 years from date of origin. All agencies shall develop guidelines for use in this program.	Systematic review to be carried out by the archivist in accordance with procedures prescribed by originating agencies and ISOO on all material accessioned into the national archives and classified presidential papers in the archivist's control. Timeframes to be established in accordance with ISOO directives and agency guidelines (50 years for cryptologic and intelligence sources or methods information; 30 years for all other classified information.) Agency heads may establish a systematic review program for permanently valuable records originating in their agencies.

COMMENTS: EXECUTIVE ORDER 12356 REPRESENTS A COMPROMISE BETWEEN THE RECOMMENDATION OF THE GENERAL ACCOUNTING OFFICE THAT SYSTEMATIC REVIEW BE ABOLISHED ENTIRELY AND THE CURRENT SYSTEM WHICH IS BOTH COSTLY AND UNSUCCESSFUL IN MEETING THE REQUIREMENTS OF THE ORDER. THE MORE REALISTIC PROGRAM ENVISIONED UNDER EXECUTIVE ORDER 12356 WILL BETTER BALANCE THE NEEDS OF RESEARCHERS WITH AVAILABLE RESOURCES. THE NATIONAL ARCHIVES WILL CONDUCT A SYSTEMATIC REVIEW PROGRAM, WHILE OTHER AGENCIES MAY CONDUCT INTERNAL PROGRAMS IF RESOURCES PERMIT. THIS PROGRAM WILL BE DESIGNED TO ENSURE THAT THOSE RECORDS MOST IN DEMAND BY HISTORIANS OR OTHER RESEARCHERS RECEIVE PRIORITY IN THE REVIEW PROCESS.

XI. MANDATORY REVIEW

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
No provision regarding mandatory review.	Originator shall review information for possible declassification upon a request by an agency or member of the general public if the information is at least ten years old.	<p>A member of the public or government agency may, at any time, request that classified information be reviewed for declassification and release. Presidential materials less than ten years old are exempt from this requirement. Agencies cannot refuse to confirm or deny the existence of a document unless that fact is classifiable under this order.</p> <p>In making declassification decisions, the originator may balance the benefits to the public from release of information against national security considerations.</p>	All information subject to mandatory review at any time upon request by a U.S. citizen, resident alien, federal agency, or state or local government. Presidential materials are subject to mandatory review consistent with applicable laws or lawful agreements. Agencies shall develop procedures for mandatory review, to include a right of appeal. Information shall be reviewed by the originator if in the custody of another agency.

COMMENTS: THE OMISSION OF THE "BALANCING TEST" IS DESIGNED TO PREVENT UNINTENDED JUDICIAL REVIEW OF EXECUTIVE BRANCH DISCRETION. BALANCING THE PUBLIC INTEREST SERVED BY DISCLOSURE OR PROTECTION OF INFORMATION IS AN INHERENT PART OF THE DECISION TO CLASSIFY AND DECLASSIFY INFORMATION, AND WILL CONTINUE TO TAKE PLACE UNDER E.O. 12356. REVIEW OF PRESIDENTIAL RECORDS IS DESIGNED TO BE CONSISTENT WITH THE PRESIDENTIAL RECORDS ACT OF 1978.

XII. SAFEGUARDING

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
Sets forth basic policies concerning access, storage, locks and security containers, dissemination, loss, compromise, accountability, transmission, destruction, etc.	Provides essentially the same basic policies for the protection of national security information as E.O. 10501. In addition, required the National Security Council to issue directives concerning protection based on these policies.	In addition to the basic policies set forth in predecessor orders, included direction for reproduction controls and for monitorship of special access programs by the Director of ISOO. Provides that ISOO promulgate implementing safeguarding directives.	Retains the basic safeguarding policies of E.O. 12065. Those portions dealing with reproduction and special access program controls have been largely deleted from the body of E.O. 12356 in order to permit individual agencies to tailor those requirements to their own functions and needs. Adds provision prohibiting distribution or dissemination of information to a third agency without the agreement of the originating agency.

COMMENTS: THE THIRD-AGENCY RULE CURRENTLY CONTAINED IN THE ISOO DIRECTIVE HAS BEEN PLACED IN THE BODY OF EXECUTIVE ORDER 12356. THE IMPLEMENTING DIRECTIVE WILL REQUIRE AGENCIES TO ESTABLISH APPROPRIATE REPRODUCTION AND SPECIAL ACCESS PROGRAM CONTROLS.

XIII. OVERSIGHT

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>Made no provisions for oversight by an independent body. Each agency was responsible for monitoring its own program. The National Security Council was responsible for conducting a continuing review of the implementation of the order to ensure that classified defense information was properly safeguarded.</p>	<p>Established a seven member Interagency Classification Review Committee (ICRC) to assist the NSC in monitoring implementation of the Order. The ICRC was charged specifically to oversee agency actions, to include approval of agency implementing directives, and to receive and take action on suggestions and complaints regarding the program from persons within or outside the government.</p> <p>Heads of agencies were charged to designate a senior official responsible for effective implementation and for ensuring that agency personnel were familiar with the requirements of the order.</p>	<p>Establishes a separate and independent body, the ISOO, to monitor the program. Provides authority for the Director, ISOO, to oversee and ensure compliance with the order through onsite reviews of agency programs, and review and approve agency implementing regulations and systematic review guidelines. Requires the Director to report annually to the President on the status of implementation of the order. The Director, ISOO, is given the authority to develop and promulgate directives for implementing the order that are binding on agencies. Overall policy direction for the program is provided by the National Security Council.</p>	<p>E.O. 12356 retains most of the authorities provided to ISOO by E.O. 12065, but provides a right to appeal to the NSC in instances in which ISOO and originating agencies differ on substantive classification determinations or decisions.</p> <p>E.O. 12356 continues to provide that the NSC shall provide overall policy direction for the program.</p>

COMMENTS: EXECUTIVE ORDER 12356 RECOGNIZES THE CONTINUING NEED FOR AN INDEPENDENT OVERSIGHT ORGANIZATION, BUT RETURNS CONSIDERABLY MORE AUTHORITY TO INDIVIDUAL AGENCIES TO ADAPT PARTICULAR REQUIREMENTS (I.E., PORTION MARKING, CLASSIFICATION GUIDES, REPRODUCTION, AND SPECIAL ACCESS PROGRAM CONTROLS) TO THEIR OWN PROGRAMS AND EXPERIENCE.

XIV. SANCTIONS

EXECUTIVE ORDER 10501, AS AMENDED	EXECUTIVE ORDER 11652	EXECUTIVE ORDER 12065	EXECUTIVE ORDER 12356
<p>Provided for no specific sanctions except that agency heads were directed to take prompt and stringent action against any employee determined to have been knowingly responsible for the unauthorized release or disclosure of classified defense information.</p>	<p>Sanctions were limited to cases of <u>repeated</u> unnecessary classification or over-classification and to unauthorized disclosures of national security information.</p>	<p>Sanctions were expanded to cover knowing and willful (1) classification in violation of the Order; (2) unauthorized disclosure; or (3) violation of any other provision of the order or implementing directives. A range of sanctions from reprimand to removal was established. The Director of ISOO must be informed of all violations and corrective actions taken.</p>	<p>The provisions of E.O. 12065 are expanded in E.O. 12356 to provide sanctions for "negligent" unauthorized disclosure. Agencies are authorized to impose administrative penalties for knowing, willful, or negligent disclosure of properly classified information, or for knowing or willful over-classification. These sanctions apply to government employees and government contractors, licenses, and grantees.</p>

COMMENTS: EXECUTIVE ORDER 12356 RETAINS AND STRENGTHENS THE SANCTION PROVISIONS OF EXECUTIVE ORDER 12065. IT ELIMINATES THE REQUIREMENT THAT AGENCIES MAKE ON-THE-SPOT REPORTS OF MINOR ADMINISTRATIVE VIOLATIONS TO THE ISOO.